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10 Attorneys for Plaintiff
AUTHENTEC, INC.

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 AuthenTec, Inc., a Delaware corporation,

15 Plaintiff,

16 vs.

17 Atrua Technologies, Inc., a California
18 corporation,

19 Defendant.

Case No. C 08-1423-PJH

**DECLARATION OF ELIZABETH
FONTAINE IN SUPPORT OF
AUTHENTEC'S UNOPPOSED MOTION
FOR LEAVE TO FILE SECOND
AMENDED COMPLAINT**

Judge: Hon. Phyllis J. Hamilton

Date: September 3, 2008

Time: 9:00 a.m.

Ctrm: Courtroom 3, 17th Floor

21 AND RELATED COUNTERCLAIMS
22

1 I, Elizabeth Fontaine, declare as follows:

2 1. I am an attorney at law duly admitted to practice in the State of California, as well as
3 before the United States Patent and Trademark Office. I am an associate at the law firm of Howrey
4 LLP, counsel for AuthenTec, Inc. ("AuthenTec") in this action. Unless indicated otherwise, I have
5 personal knowledge of the facts set forth in this Declaration.

6 2. Attached as Exhibit A is a true and correct copy of an July 29, 2008 email from James Li,
7 counsel for Atrua, which states that "Atrua does not oppose [] AuthenTec's filing of the second
8 amended complaint."

9 I declare under penalty of perjury under the laws of the United States of America that the
10 foregoing is true and correct.

11 Executed this 30th day of July 2008, at Irvine, California.

12
13 /s/ Elizabeth Hoult Fontaine

14 Elizabeth Hoult Fontaine
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EXHIBIT

A

Fontaine, Elizabeth

From: lij@gtlaw.com
Sent: Tuesday, July 29, 2008 11:55 AM
To: DeMory, Denise; hoggem@gtlaw.com; MaheshwariS@gtlaw.com
Cc: Fontaine, Elizabeth; Greinert, Matthew
Subject: RE: Atrua - Second Amended Complaint for Patent Infringement.doc

Denise:

Atrua does not oppose to AuthenTec's filing of the second amended complaint as attached to your email. But we do reserve all rights to dismiss any or all claims in the amended complaint.

As we understand it, regardless of whether we stipulate or not, AuthenTec still needs to ask the court for leave to file this amended complaint. So, to save us some trouble, can you just file an unopposed motion for leave to amend where you may represent to the court that Atrua does not oppose to your filing the amended complaint? This way, we don't need to go through the trouble of revising the stipulation.

Regards,

Jim

From: DeMory, Denise [mailto:DeMoryD@howrey.com]
Sent: Thursday, July 24, 2008 11:13 PM
To: Li, James (Shld-SV-IP/Tech); Hogge, Mark L. (Shld-DC-IP/Tech/LT); Maheshwari, Shailendra (Assoc-DC-IP/Tech)
Cc: Fontaine, Elizabeth; Greinert, Matthew
Subject: Atrua - Second Amended Complaint for Patent Infringement.doc

Jim,

Here is a revised draft second amended complaint. As we agreed, please let us know on Tuesday whether or not you will stipulate to the filing of the attached second amended complaint.

Regards,

Denise

<<Atrua - Second Amended Complaint for Patent Infringement.pdf>>

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